

BOCK & HATCH, LLC

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October 25, 2013

RE: City Select Auto Sales, Inc. v. David Randall & Assoc., No. 1:11-CV-02658-JBS-KMW

Dear Judge Simandle:

As per the Court's direction, enclosed please find a copy of the representation agreement with City Select Auto Sales, Inc. as Exhibit A. *See also* Doc. 31-2, p. 18 (G. Winter's retainer agreement).

Also, during the end of the class hearing held on October 23, 2013 Mr. Fitzpatrick *several* times also informed the court that Plaintiff refused to produce to Defendant the Anderson + Wanca marketing letter that was sent to City Select.

Mr. Fitzpatrick's representations to the Court were both misleading and false. Indeed, Mr. Fitzpatrick has possessed the letter for over 18 months and extensive argument and briefing have already occurred in this case regarding same!

In fact, a copy of the letter sent to City Select was produced as an exhibit in the Expert Opinion of Richard Painter filed with the Court on April 5, 2012. Exhibit B, Doc. 36-1. Professor Painter discussed the marketing letter at length (Doc. 36-1, pp. 11-12) and included the letter at Doc. 36-1, p. 70. This letter was also discussed at length by both parties during the first certification hearing in December 2012. For example, Mr. Fitzpatrick was even corrected on the record and told that "the marketing letter that Anderson + Wanca used, it was actually Exhibit F to [Professor] Richard Painter's opinion that the marketing letter ... did not violate the Rules of Professional Conduct." Doc. 60-2, p. 44, lines 6-13. Extensive briefing and argument was had about the letter during the class certification phase. E.g. Doc. 60-2, p. 44, lines 5-25; Doc. 60-2, p. 45:1-12. *See also*, Doc. 36, pp. 5-6, n.1; Doc. 60, pp. 23-24 and Compare Doc. 82 (no response).

Moreover, a copy of the form Anderson + Wanca marketing letter believed to have been sent to the state court plaintiff – the G. Winters client – was also produced on August 24, 2010 and was even attached to Defendant's briefing in opposition to class certification in March 2012. *See* Doc. 31-2, pp.

11-13 (Letter from Deborah Bussert to Mr. Fitzpatrick, also explaining Caroline Abraham's address and telephone number). Before the February 2013 deposition of Mr. Pellegrini, Plaintiff even informed Mr. Fitzpatrick that it did not have any documents other than what Plaintiff had previously produced. Compare Exhibit C (letter from Jon Piper) to Exhibit D (Defendant's deposition notice and rider).

A handwritten signature in cursive script that reads "Tod H. Lewis". The signature is written in dark ink and is positioned above a horizontal line.

Tod Lewis
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CC: F. Emmett Fitzpatrick